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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,324	09/24/2003	Kensuke Amemiya	A8319.0020/P020-A	2314

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EXAMINER

YUN, JURIE

ART UNIT	PAPER NUMBER
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2882

DATE MAILED: 03/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,324

Applicant(s)

AMEMIYA ET AL.

Examiner

Jurie Yun

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/7/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/246,450.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/24/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 29-49 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 29-49 of copending Application No. 10/246,450. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 29-34 and 38-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Saoudi et al. (USPN 6,448,559 B1).

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5. With respect to claims 29-34, Saoudi et al. disclose a radiological imaging method, comprising the steps of: detecting the X-ray passing through a test object administered with radiopharmaceutical; and detecting a gamma-ray emitted from said test object due to said radiopharmaceutical in said test object at a position of said test object irradiated with the X-ray (column 7, lines 14-67 & column 2, line 64 – column 3, line 2). Saoudi et al. also disclose the test object being placed on a bed when radiation is detected (column 7, line 14). Saoudi et al. also disclose producing tomographic image information using first information obtained from said gamma-ray detection signal and second information obtained from said X-ray detection signal (column 1, lines 55-57 & column 8, lines 31-35). Saoudi et al. also disclose detecting the gamma-ray and the X-ray using a common radiation detector. The gamma-ray is detected by portion 14, and the X-ray is detected by portion 12 of the detector 10. Saoudi et al. also disclose moving an X-ray source for emitting the X-ray around the test object when said X-ray is detected (column 6, lines 49-67).

6. With respect to claims 38, 39, and 42-45, Saoudi et al. disclose a radiological imaging method, comprising the steps of: detecting a gamma-ray emitted from a part where radiopharmaceutical concentrates in a test object (column 7, lines 14-21); irradiating an X-ray onto said test object and detecting an X-ray passing through the part, said test object being placed on a bed (116) when radiation is detected (column 8, lines 37-40); detecting the gamma-ray using a gamma-ray detecting section (14) including a plurality of radiation detectors (12) aligned substantially in parallel with the longitudinal direction of said bed (the detector (10, made up of 12 & 14) disclosed by

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Saoudi et al. is cylindrical, and the axis of the cylinder (101) is parallel to the longitudinal axis of the bed); and irradiating the X-ray onto test object between one end and the other end of said gamma-ray detecting section in the direction (the irradiated portion of the object is located between the ends of the gamma ray detector). Saoudi et al. also disclose detecting a gamma-ray emitted from said test object using said radiation detectors other than some radiation detectors when some radiation detectors detect the X-ray (column 2, line 64 – column 3, line 2). Saoudi et al. also disclose detecting an X-ray passing through said test object in the radiological imaging examination period for detecting the gamma-ray (column 8, lines 37-40).

7. With respect to claim 47, Saoudi et al. disclose the gamma-ray detecting section and the X-ray detecting section are integrated to constitute a radiation detecting section serving as said gamma-ray detecting section and said X-ray detecting section, and said radiation detecting section is constituted by said plurality of radiation detectors for outputting both of said gamma-ray detection signal and said X-ray detection signal (column 5, lines 18-41).

8. With respect to claims 41 and 48, Saoudi et al. disclose a first signal processing apparatus for inputting a detection signal of a gamma-ray from radiation detectors of said gamma-ray detecting section and outputting first information used for producing first tomographic image information including a part on which radiopharmaceutical concentrates; and a second signal processing apparatus for inputting a detection signal of said X-ray from said radiation detectors of said X-ray detecting section and outputting second information used for producing second tomographic image information including

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bones, said second signal processing apparatus being provided for each of radiation detectors of said X-ray detecting section (column 5, lines 35-42 & column 7, lines 6-13 & column 8, lines 19-30).

9. With respect to claims 40 and 46, Saoudi et al. disclose a tomographic image producing apparatus which produces first tomographic image information by using first information obtained from said gamma-ray detection signal, second tomographic image information by using second information obtained from said X-ray detection signal, and third tomographic image information including said first tomographic image information and said second tomographic image information (column 1, lines 55-57 & column 8, lines 19-40).

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jurie Yun whose telephone number is 571 272-2497.

The examiner can normally be reached on Monday-Friday 8:30-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Glick can be reached on 571 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jurie Yun
March 8, 2004



Craig E. Church
Primary Examiner